

Department of the Army, DoD

§ 536.94

1962, 10 U.S.C. 2737, 76 Stat. 767, commonly called the "Non-Scope Claims Act (NSCA)."

§ 536.91 Scope for claims under the Non-Scope Claims Act.

(a) This subpart applies worldwide and prescribes the substantive bases and special procedural requirements for the administrative settlement and payment of not more than \$1,000 for any claim against the United States for personal injury, death or damage to, or loss of, property caused by military personnel or civilian employees, incident to the use of a U.S. vehicle at any location, or incident to the use of other U.S. property on a government installation, which claim is not cognizable under any other provision of law.

(b) For the purposes of this subpart, a "government installation" is a facility having fixed boundaries owned or controlled by the government, and a "vehicle" includes every description of carriage or other artificial contrivance used, or capable of being used, as means of transportation on land (1 U.S.C. 4).

(c) Any claim in which there appears to be a dispute about whether the employee was acting within the scope of employment will be considered under subparts C, D, or F of this part. Only when all parties, including an insurer, agree that there is no "in scope" issue will the claim be considered under this subpart.

§ 536.92 Claims payable under the Non-Scope Claims Act.

(a) *General.* A claim for personal injury, death, or damage to, or loss of, property, real or personal, is payable under this subpart when:

(1) Caused by negligent or wrongful acts or omissions of Department of Defense or Department of the Army (DA) military personnel or civilian employees, as listed in § 536.23(b):

(i) Incident to the use of a vehicle belonging to the United States at any place or;

(ii) Incident to the use of any other property belonging to the United States on a government installation.

(2) The claim is not payable under any other claims statute or regulation

available to the DA for the administrative settlement of claims.

(b) *Personal injury or death.* A claim for personal injury or death is allowable only for the cost of reasonable medical, hospital, or burial expenses actually incurred and not otherwise furnished or paid by the United States.

(c) *Property loss or damage.* A claim for damage to or loss of property is allowable only for the cost of reasonable repairs or value at time of loss, whichever is less.

§ 536.93 Claims not payable under the Non-Scope Claims Act.

Under this subpart, a claim is not payable that:

(a) Results in whole or in part from the negligent or wrongful act of the claimant or his or her agent or employee. The doctrine of comparative negligence does not apply.

(b) Is for medical, hospital, or burial expenses furnished or paid by the United States.

(c) Is for any element of damage pertaining to personal injuries or death other than as provided in § 536.93(b). All other items of damage, for example, compensation for loss of earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement and pain and suffering are not payable.

(d) Is for loss of use of property or for the cost of substitute property, for example, a rental.

(e) Is legally recoverable by the claimant under an indemnifying law or indemnity contract. If the claim is in part legally recoverable, the part recoverable by the claimant is not payable.

(f) Is a subrogated claim.

(g) In some circumstances some claims may be partially payable. See DA Pam 27-162, paragraph 5-4 for more information on claims that may be partially payable.

§ 536.94 Settlement authority for claims under the Non-Scope Claims Act.

(a) *Settlement authority.* The following are delegated authority to pay up to